

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

**R.A.Jr., (a minor child, by and through his
Father and next best friend, Richard Lemmel
Arnold,
Plaintiff,
v.
DEPUTY SHERIFF WALTER LACEY,
in his official and individual capacity
Defendant.**

Case No.: 3:06-CV-337-WHA

PLAINTIFFS' JURY INSTRUCTION NUMBER 4

FED-JI § 105.09

§ 105.09. Effect of prior inconsistent statements or conduct

Evidence that, at some other time while not under oath a witness who is not a party to this action has said or done something inconsistent with the witness' testimony at the trial, may be considered for the sole purpose of judging the credibility of the witness. However, such evidence may never be considered as evidence of proof of the truth of any such statement.

Where the witness is a party to the case, and by such statement or other conduct admits some fact or facts against the witness' interest, then such statement or other conduct, if knowingly made or done, may be considered as evidence of the truth of the fact or facts so admitted by such party, as well as for the purpose of judging the credibility of the party as a witness .

An act or omission is “knowingly” done, if done voluntarily and intentionally, and not because of mistake or accident or other innocent reason.

GIVEN

REFUSED